

Message Text

UNCLASSIFIED

PAGE 01 STATE 181944

72

ORIGIN EA-14

INFO OCT-01 ISO-00 PM-07 NSC-07 SP-03 SS-20 RSC-01 H-03

CIAE-00 DODE-00 NSAE-00 NSCE-00 SSO-00 USIE-00 INRE-00

PA-04 PRS-01 /061 R

DRAFTED BY EA/VN:OABARTLEY:JCM

APPROVED BY EA/VN:OABARTLEY

----- 121331

O 192312Z AUG 74

FM SECSTATE WASHDC

TO AMEMBASSY SAIGON IMMEDIATE

UNCLAS STATE 181944

E.O. 11652: N/A

TAGS: PINT, VS

SUBJECT: NEW YORK TIMES ARTICLES

FOR CHARGE FROM EA/VN.

1. FOLLOWING IS FULL TEXT OF 19 AUGUST NEW YORK TIMES
ARTICLE BY SHIPLER. WOULD APPRECIATE MISSION COMMENTS
ASAP FOR POSSIBLE USE ON HILL.

BEGIN TEXT

PARA THE SMALL COURTROOM IS LIT DIMLY BY A FEW BARE BULBS
ON THE CEILING. FROM BEHIND THE HEAVY BLACK JUDICIAL
BENCH FIVE ARMY OFFICERS IN BATTLE FATIGUES PEER OUT AT
THE PRISONERS, WHO STAND SILENTLY AMONG THEIR FAMILIES
AND FRIENDS. IN AN AISLE A MILITARY POLICEMAN FINGERS
HALF A DOZEN HANDCUFFS, GETTING THEM READY. THE CHIEF
JUDGE, LIEUTENANT COLONEL, READS THE VERDICTS. PARA
THREE MONTHS TO THE YOUNG MAN FOR SELLING CANNED MILK AND
SOAP TO THE ENEMY. FIVE YEARS IN ABSENTIA TO THE THREE
MEN FOR TREASON. FOUR MONTHS, THREE
MONTHS AND THREE

UNCLASSIFIED

UNCLASSIFIED

PAGE 02 STATE 181944

MONTHS TO THE THREE MEN FOR USING HEROIN. A YEAR TO THE

BOY FOR DESERTING, BUT NO SENTENCE FOR HIS MOTHER, WHO IS CHARGED WITH HELPING HIM. PARA IN JUST TWO HOURS ON A RECENT MORNING THE COURT TRIED 15 PEOPLE WITHOUT WITNESSES, WITHOUT CROSS-EXAMINATION. NINE WERE JAILED AND SIX RELEASED. PARA THIS IS THE MILITARY FIELD COURT IN SAIGON, ONE OF FOUR IN SOUTH VIETNAM. OVER THE LAST 20 YEARS, LITTLE BY LITTLE, THESE COURTS, WHICH BEGAN AS EMERGENCY AND TEMPORARY INSTITUTIONS ON THE BATTLEFIELD, HAVE EXPANDED THEIR JURISDICTION AND HAVE BECOME MAJOR INSTRUMENTS OF JUDICIAL POWER, EVEN THOUGH THE SUPREME COURT DECLARED THEM UNCONSTITUTIONAL IN 1970. PARA "MOST MAJOR CASES" ACCORDING TO LAWYERS, POLICEMEN AND JUDICIAL OFFICIALS, THEY NOW HANDLE VIRTUALLY EVERY CASE OF PRO-COMMUNIST OR ANTI-GOVERNMENT ACTIVITY--PLUS MANY PURELY CRIMINAL MATTERS -- IN WHICH SOME SCRAP OF EVIDENCE EXISTS. MOST CASES WITHOUT SUFFICIENT EVIDENCE GO TO PANELS OF ARMY OFFICERS KNOWN AS PROVINCIAL SECURITY COMMITTEES, WHICH CONDUCT THEIR PROCEEDINGS IN SECRET, WITHOUT DEFENSE ATTORNEYS AND SOMETIMES WITHOUT EVEN THE DEFENDANTS PRESENT. PARA TOGETHER, THE MILITARY FIELD COURTS AND THE PROVINCIAL SECURITY COMMITTEES FORM THE JUDICIAL ARM OF AN EXTENSIVE POLICE SYSTEM THAT OPERATES IN A TWILIGHT ZONE BETWEEN MILITARY AND POLITICAL WARFARE. PARA IT EVOLVED AS A WEAPON AGAINST WHAT THE GOVERNMENT SAW AS THE COMMUNISTS' IMMENSE SKILL IN INFILTRATING AND WOOLING THE CIVILIAN POPULATION. BUT DISSIDENTS CHARGE THAT THIS POTENT MACHINERY IS ALSO USED TO JAIL STUDENTS, LABOR LEADERS, WRITERS AND POLITICAL OPPONENTS OF THE GOVERNMENT WHO HAVE NO CONNECTION WITH THE COMMUNISTS. PARA THE POLICE AND JUDICIAL SYSTEMS OPERATE WITHIN A FRAMEWORK OF MARTIAL LAW, WHICH WAS DECLARED IN SOUTH VIETNAM IN 1965 AND RENEWED IN 1972. PARA UNDER MARTIAL LAW PRESIDENT NGUYEN VAN THIEU HAS USED HIS POWERS TO ISSUE DECREES THAT, IN EFFECT, PROHIBIT ALL POLITICAL PARTIES EXCEPT HIS OWN DEMOCRATIC PARTY; PROHIBIT STRIKES AND DEMONSTRATIONS; FORBID THE ASSEMBLY OF SEVEN OR MORE PERSONS WITHOUT A PERMIT; OUTLAW ORGANIZATIONS AND ASSOCIATIONS NOT APPROVED BY THE GOVERNMENT; PROHIBIT THE POSSESSION AND DISTRIBUTION OF ANY PRINTED MATTER OR PHOTOGRAPHS DEEMED HARMFUL TO

UNCLASSIFIED

PAGE 03 STATE 181944

NATIONAL SECURITY, AND ALLOW THE POLICE TO SEARCH HOMES WITHOUT WARRANTS, DETAIN ANYONE CONSIDERED DANGEROUS AND ASSIGN CITIZENS TO FORCED PLACES OF RESIDENCE. PARA THE ENTIRE STRUCTURE IS DESIGNED TO DEAL SWIFTLY WITH EMERGENCIES, AND ITS JUDICIAL ARM HAS DISPENSED WITH THE TIME-CONSUMING OBSERVANCE OF DEFENDANTS' RIGHTS AND RULES OF EVIDENCE. THE SYSTEM RELIES HEAVILY ON CONFESSION AND THEREBY, IN THE VIEW OF A NUMBER OF SOUTH VIETNAMESE

LAWYERS AND LEGAL EXPERTS, PROVIDES A FIRMLY
INSTITUTIONALIZED MOTIVE FOR TORTURE DURING INTERROGATION.

PARA SOME WEEKS AGO PHAN VAN BAN STOOD BEFORE THE FIVE
MILITARY JUDGES IN THE SAIGON COURT, WHOSE PROCEEDINGS
ARE USUALLY OPEN TO THE PUBLIC. HE LIVED IN TAY NINH
PROVINCE NORTH OF SAIGON, WHERE PATCHES OF VIET CONG
AND GOVERNMENT CONTROL BLUR INTO EACH OTHER JUST OFF
THE MAJOR HIGHWAYS. HE WAS ACCUSED OF BUYING A TRACTOR
TO SELL TO THE VIET CONG. HE DENIED THE CHARGE.

PARA "THEN WHY DID YOU SIGN HERE?" ASKED THE CHIEF
JUDGE, A LIEUTENANT COLONEL, POINTING TO MR. BAN'S
CONFESSION IN THE POLICE DOSSIER. PARA "BECAUSE I WAS
TORTURED SO I JUST SIGNED," HE REPLIED. THERE WAS NO
REACTION FROM THE JUDGES, NO MURMUR OF SURPRISE IN THE
CROWDED COURTROOM. PARA "THEY BEAT ME TOO MUCH"
"DID YOU PLAN TO BUY IT AND SELL IT TO THE VC?" PARA
"NO." PARA "THEN WHY DID YOU ADMIT YOU PLANNED TO SELL
IT TO THE VC AT THE POLICE INTERROGATION?" PARA
"BECAUSE THEY BEAT ME TOO MUCH SO I ADMITTED IT." PARA
"ACCORDING TO THE DOSSIER, THIS IS THE SECOND TIME YOU
TRIED TO BUY A TRACTOR." PARA "BECAUSE I HAVE A SON
WITH THE VC THEY ALWAYS SUSPECT ME AND FORCE ME TO
ADMIT IT," MR. BAN REPLIED, REFERRING TO HIS 14-YEAR-OLD
BOY, WHO JOINED THE VIET CONG TWO YEARS AGO. PARA
MR. BAN WAS NOT SENTENCED THAT DAY BUT WAS TRIED AGAIN
LATER. CONVICTED AFTER DENYING THE CHARGE AGAIN, HE
WAS SENTENCED TO SIX MONTHS IN PRISON. PARA THE MAJOR
EVIDENCE BEFORE THE COURTS AND COMMITTEES IS THE POLICE
DOSSIER--A COLLECTION OF PAPERS STUFFED INTO A HEAVY
FOLDER AND SET BEFORE THE CHIEF JUDGE. PARA HE AND
HIS FOUR FELLOW JUDGES WEAR DARK GREEN FATIGUE UNIFORMS,
ON THE LEFT SHOULDERS OF WHICH ARE SEWN PATCHES
UNCLASSIFIED

UNCLASSIFIED

PAGE 04 STATE 181944

EMBROIDERED WITH PERFECTLY BALANCED SCALES OF JUSTICE.
PARA THE DEFENDANT WHO STANDS BEFORE THE BAR HAS NOT SEEN
THE DOSSIER, WHICH CONTAINS STATEMENTS AND CONFESSIONS
MADE DURING INTERROGATION AS WELL AS ALLEGATIONS BY
INFORMANTS AND POLICEMEN. PARA HE WILL LEARN NOTHING
MORE ABOUT THE CONTENTS THAN THE CHIEF JUDGE CHOOSES TO
TELL HIM DURING THE TRIAL, SO THE REBUTTALS HE MAKES
WILL BE SHAPED BY THE JUDGE'S QUESTIONS. HE IS NOT
ALLOWED TO CALL WITNESSES OR CONFRONT AND EXAMINE THOSE
WHO HAVE ACCUSED HIM. PARA HIS LAWYER, DRESSED IN A
BLACK ROBE WITH A STARCHED WHITE COLLAR, STANDS SLIGHTLY
TO THE REAR, SAYING NOTHING. WHEN THE CHIEF JUDGE IS
FINISHED THE GOVERNMENT PROSECUTOR -- AN ARMY OFFICER
WHO SITS NEAR THE JUDGES--MAY ASK SOMETHING AND THEN
SUMMARIZES THE PROSECUTION'S CASE. PARA THE DEFENSE

COUNSEL RESPONDS WITH A SUMMARY STATEMENT. HE IS NOT ALLOWED TO QUESTION THE DEFENDANT TO BRING OUT ASPECTS OF THE CASE THAT MAY HAVE BEEN OMITTED BY THE JUDGE'S QUESTIONS AND HIS CLIENT'S ANSWERS. PARA WITHOUT

WITNESSES OR CROSS-EXAMINATION, EACH CASE OFTEN COMES DOWN TO THE WORD OF THE DEFENDANT AGAINST THE REPORTS IN THE POLICE DOSSIER, WITH THE CONFESSION, IF THERE IS ONE, PLAYING A PIVOTAL ROLE. PARA "NO CITIZEN CAN BE TORTURED, THREATENED OR FORCED TO CONFESS," STATES ARTICLE 7, SECTION 4, OF THE SOUTH VIETNAMESE CONSTITUTION. "A CONFESSION OBTAINED BY TORTURE, THREAT OR COERCION WILL NOT BE CONSIDERED AS VALID EVIDENCE." PARA "THEY CONFESS" "THEY CONFESS," SAID A POLICE OFFICER. HE IS A HIGH-RANKING OFFICER IN THE SPECIAL BRANCH OF THE NATIONAL POLICE, WHICH IS RESPONSIBLE FOR GATHERING INTELLIGENCE AND ARRESTING VIET CONG AND THEIR SYMPATHIZERS AMONG THE CIVILIAN POPULATION. PARA "WE DO NOT BEAT THEM," HE SAID, "BUT WE SHOW THEM VIOLENCE, WE THREATEN THEM. WE HAVE PEOPLE CRYING IN THE NEXT ROOM SO THE SUBJECT THINKS THEY'RE BEING TORTURED. WE KEEP THEM AWAKE, CONSTANTLY QUESTIONING THEM FOR 20 HOURS, 24 HOURS, NOT LETTING THEM SLEEP, SHIFTING TEAMS OF INTERROGATORS." PARA HIS ENGLISH WAS FLAVORED WITH A TRACE OF A FRENCH ACCENT. A CIGARETTE DANGLED PRECARIOUSLY FROM HIS LIPS. PARA UNCLASSIFIED

UNCLASSIFIED

PAGE 05 STATE 181944

"VINEGAR AND SUGAR," HE EXPLAINED -- AN INTERROGATOR WHO IS HARSH FOLLOWED BY ONE WHO IS EASY. "VINEGAR AND SUGAR," HE REPEATED. PARA THE CONSTITUTION NOTWITHSTANDING, "GETTING A CONFESSION IS A VERY IMPORTANT JOB OF THE POLICE," SAID A PROMINENT CIVILIAN JUDGE WHO HAS WATCHED WITH GROWING DISMAY AS THE MILITARY COURTS' POWER HAS EXPANDED. PARA WHETHER THE CONFESSION IS TRUE OR FALSE OFTEN REMAINS AN OPEN QUESTION, THE JUDGE OBSERVED, SINCE NO WITNESSES ARE CALLED. NEVERTHELESS, HE CONTINUED, WHEREVER THE TRUTH LIES IN A CASE, MILITARY JUDGES HAVE LONG TENDED TO TAKE CONFESSIONS SERIOUSLY AND TO DISMISS ATTEMPTS TO RESCIND THEM. PARA THERE ARE MANY ACCOUNTS OF TORTURE. IN THE EARLY NINETEEN SIXTIES ONE MAN, AS A HIGH-SCHOOL STUDENT, WAS CHARGED WITH THROWING A HAND GRENADE IN HIS SCHOOL ALTHOUGH HE INSISTED THAT ALL HE HAD DONE WAS TO DISTRIBUTE ANTI-GOVERNMENT LEAFLETS FOR THE VIET CONG. DURING INTERROGATION HE FINALLY SIGNED WHAT HE SAID WAS A FALSE CONFESSION AFTER SEVERE TORTURE. PARA THEN HE REPUDIATED HIS CONFESSION IN COURT, DENIED THE CRIME AND TOLD THE JUDGES HE HAD BEEN TORTURED. HE WAS CONVICTED AND SENTENCED TO FIVE YEARS, HE SAID; HE REMAINED IN

PRISON FOR SIX. PARA A HIGH-SCHOOL MATHEMATICS TEACHER, ACTIVE IN THE PEACE MOVEMENT AND AN ADVOCATE OF A CEASE-FIRE, SAID HE WAS ARRESTED IN 1965 AND BEATEN UNTIL HE ADMITTED FALSELY THAT HE HAD HANDLED MONEY FOR SOME VIET

CONG MEMBERS. PARA LAST SEPTEMBER, AFTER FIVE MONTHS IN PRISON, NGUYEN THUA NGHIEP, PRESIDENT OF THE PETROLEUM AND CHEMICAL FACTORY WORKERS UNION, WAS BROUGHT TO TRIAL WITH TWO OTHER UNION LEADERS WHO HAD BEEN ACCUSED OF WORKING FOR THE COMMUNISTS. PARA MR. NGHIEP, A COURTLY MAN, HAD DISPLEASED BOTH HIS EMPLOYER, ESSO EASTERN, INC.--EXXON'S SUBSIDIARY IN THE FAR EAST--AND THE GOVERNMENT WITH SOME STRONG UNION ACTION AND A CAMPAIGN TO EASE THE BURDEN OF THE INCOME TAX. HE WAS ABOUT TO BEGIN AN EFFORT TO INCREASE BENEFITS FOR WORKERS' FAMILIES. PARA ACCORDING TO AN ACCOUNT OF HIS TRIAL THAT HAS APPEARED IN UNION PUBLICATIONS, MR. NGHIEP TOLD THE MILITARY JUDGES THAT ALTHOUGH HE HAD SIGNED A CONFESSION, HE DID SO UNDER

UNCLASSIFIED

PAGE 06 STATE 181944

PRESSURE. HE DENIED WORKING FOR THE COMMUNISTS AND WAS SAID TO HAVE DECLARED: "I HOPED THAT WHEN I WOULD APPEAR IN COURT I COULD EXPLAIN ALL THE TRUTH. I BELIEVED I WOULD BE GIVEN A FAIR TRIAL." PARA HE WAS CONVICTED AND SENTENCED TO 18 MONTHS BUT WAS RELEASED THREE WEEKS LATER AFTER PRESSURE FROM INTERNATIONAL LABOR ORGANIZATIONS. PARA THE AMERICAN EXECUTIVES OF ESSO IN SAIGON, WHERE HE HAD WORKED AS AN ACCOUNTANT FOR 26 YEARS, DISMISSED HIM, CITING HIS CONVICTION. THE LETTER OF DISMISSAL WAS DATED AUGUST 26, 1973, EIGHT DAYS BEFORE THE TRIAL. NOW MR. NGHIEP SITS AT HIS EMPTY DESK AT ESSO, DRAWING NO PAY, SURVIVING ON THE CONTRIBUTIONS OF FELLOW WORKERS. PARA "ACCOUNTS BY PRISONERS" PRISONERS, IN KAFKAESQUE DESCRIPTIONS OF THEIR WANDERINGS THROUGH THE PRISON AND JUDICIAL SYSTEM, SAY THEY NEVER CONFESSED AND WERE CONVICTED NONETHELESS-BUT BY WHAT EVIDENCE THEY WERE NEVER SURE--WERE CONVICTED BUT RELEASED, WERE ACQUITTED BUT JAILED, JAILED BUT NEVER TRIED. PARA THE TRIAL OF MR. NGHIEP AND THE OTHERS, SCHEDULED TO BEGIN AT 9 A.M., ACTUALLY BEGAN AT 8, WELL BEFORE THE ARRIVAL OF HIS LAWYER, BUI CHANH TOI, WHO WROTE ANGRILY TO THE BAR ASSOCIATION THAT THE CHANGE "WAS INTENTIONALLY PREMEDITATED TO DEPRIVE THE DEFENDANTS OF THE RIGHT TO HAVE THE LAWYER WHOM THEY HAD CHOSEN TO PLEAD FOR THEM." PARA TRAN TUAN NHAM, A HIGH-SCHOOL TEACHER WHO WAS ARRESTED AFTER RUNNING A STRONGLY ANTI-AMERICAN CAMPAIGN FOR A NATIONAL ASSEMBLY SEAT, SAID THAT HE SAT IN PRISON FOR EIGHT MONTHS WITHOUT TRIAL. TWO DAYS BEFORE THE PARIS AGREEMENT WAS SIGNED IN JANUARY, 1973, A MOBILE

MILITARY COURT APPEARED, HE RECALLED, AND HE WAS HURRIEDLY TAKEN BEFORE IT. PARA "I PROTESTED THAT THEY WERE NOT FOLLOWING EVEN THE MOST MINIMAL LEGAL PROCEDURES, NOT TO NOTIFY MY LAWYER, NOT TO INFORM ME OF

THE CHARGES," HE SAID. PARA "I WAS ASKED A SERIES OF QUESTIONS -- WHY I OPPOSED THE AMERICANS. I STARTED TO ANSWER THE FIRST QUESTION, SAYING WHY IT WAS NECESSARY TO OPPOSE THE AMERICANS, AND THE HEAD OF THE MILITARY COURT TOLD THE MILITARY POLICE TO COME AND TAKE ME OUT BEFORE I'D EVEN FINISHED ANSWERING THE FIRST QUESTION." PARA THREE DAYS LATER, HE SAID, HE WAS UNCLASSIFIED

UNCLASSIFIED

PAGE 07 STATE 181944

TOLD THE VERDICT: GUILTY OF DISTURBING PUBLIC SECURITY. PARA "BARRED FROM COURTROOM" A STUDENT WHO SAID HE WAS ARRESTED AFTER SUPPORTING SOME STRIKING FACTORY WORKERS GAVE THIS ACCOUNT OF HIS TRIAL BEFORE A PROVINCIAL SECURITY COMMITTEE: PARA "THEY CALLED ABOUT 20 PEOPLE ALL AT ONCE TO COME TO A MEETING ROOM ON A TUESDAY AFTERNOON. SOME PEOPLE WERE ALLOWED TO ENTER AND OTHERS WERE NOT. I WAS ONE OF THE ONES WHO WAS NOT ALLOWED TO ENTER. PARA "BEFORE THEY TOOK US THERE AND WHILE WE

WERE SITTING THERE WE WERE BLINDFOLDED SO WE COULD NOT SEE ANYTHING. AFTER THEY HAD REACHED A DECISION WE WERE TAKEN BACK. I WAS NOT TOLD ANYTHING. EVEN NOW THAT I AM OUT I DO NOT HAVE ANY IDEA WHY I WAS SENTENCED OR FOR HOW LONG." PARA SINCE THE PROVINCIAL SECURITY COMMITTEES EACH HEADED BY A PROVINCE CHIEF, WHO IS AN ARMY OFFICER--MEET IN SECRET, THEY PROVIDE EVEN LESS OPPORTUNITY FOR AN ACCUSED TO DEFEND HIMSELF THAN DO THE MILITARY COURTS. PARA SUCH COMMITTEES GET A CASE "IF THEY HAVE REPORTS ABOUT A MAN BUT NO EVIDENCE OF WHAT HE IS DOING," A HIGH-RANKING CIVILIAN JUDGE EXPLAINED. AN OFFICER IN THE SPECIAL BRANCH OF THE POLICE WORKING IN ONE OF THE PROVINCES CONFIRMED THIS, ADDING THAT IF SOME EVIDENCE EXISTED, THE CASE WAS USUALLY SENT TO THE MILITARY FIELD COURTS. PARA "NATURALLY WITH THIS WAY OF DOING THINGS THERE ARE MANY ABUSES," THE JUDGE OBSERVED. "YOU CAN SUSPECT ANY PERSON YOU DON'T LIKE. IT'S VERY EASY TO ACCUSE SOMEBODY AND PUT SOMEBODY IN JAIL." PARA "IT'S MUCH BETTER TO RELEASE 9 OR 10 SUSPECTS INSTEAD OF CONDEMNING ONE INNOCENT MAN," HE ADDED. "BUT THAT'S THE OPPOSITE OF THE PRESENT POLICY. THEY PREFER TO CONDEMN 9 OR 10 INNOCENTS THAN RELEASE ONE SUSPECT. THIS MEANS THAT THESE SPECIAL MEASURES TOUCH MORE INNOCENTS THAN GUILTY." PARA "CIVILIAN COURTS AFFECTED" THE RISE OF SOUTH VIETNAM'S MILITARY SYSTEM OF JUSTICE TO PRE-EMINENCE APPEARS TO HAVE SERIOUSLY WEAKENED THE CIVILIAN

JUDICIARY. THE MILITARY FIELD COURTS, WHICH THE FRENCH, WHEN THEY CONTROLLED INDOCHINA, INSTITUTED AS TEMPORARY BODIES TO TRY LOCAL MILITARY-RELATED CRIMES, GAINED

PERMANENT JURISDICTION UNDER THE PRESIDENCY OF NGO DINH
UNCLASSIFIED

UNCLASSIFIED

PAGE 08 STATE 181944

DIEM, WHICH ENDED WITH HIS MURDER IN 1963. AS THE GUERRILLA WAR INTENSIFIED, THE COURTS GAINED POWER. PARA THIS HAS REMOVED MANY CASES FROM THE PURVIEW OF THE CIVILIAN COURT SYSTEM, WHICH WAS TRANSFORMED BY THE 1967 CONSTITUTION INTO AN INDEPENDENT JUDICIARY, CO-EQUAL WITH THE LEGISLATIVE AND EXECUTIVE BRANCHES. UNDER THE CONSTITUTION CIVILIAN JUDGES CEASED TO BE APPOINTED BY THE EXECUTIVE THROUGH THE MINISTRY OF JUSTICE AND ARE NAMED BY AN INDEPENDENT SUPREME COURT. PARA IN CONTRAST, THE POWERFUL MILITARY JUDGES ARE APPOINTED AND ASSIGNED BY THE MINISTER OF DEFENSE, AND IT IS THIS THAT LED THE SUPREME COURT TO DECLARE THE MILITARY FIELD COURTS UNCONSTITUTIONAL IN 1970. PARA THE RULING HAS HAD VIRTUALLY NO EFFECT, ACCORDING TO LEGAL EXPERTS. THE EXECUTIVE BRANCH MADE A CONCESSION THAT IS WIDELY REGARDED AS IRRELEVANT: IT ALLOWED THE SUPREME COURT TO NAME A CIVILIAN JUDGE TO ACT AS PRESIDENT OF THE MILITARY FIELD COURT IN EACH OF THE FOUR MILITARY REGIONS. PARA BUT AS A JUDICIAL OFFICIAL AND A GOVERNMENT PROSECUTOR OBSERVED, THE CIVILIAN IS NORMALLY ASSIGNED TO ACT AS CHIEF JUDGE ONLY IN MINOR CASES, AND HE CAN ALWAYS BE OUTVOTED BY THE ARMY OFFICERS. IN IMPORTANT CASES, THEY ADDED, THE PANEL IS USUALLY HEADED BY ITS VICE PRESIDENT, A MILITARY MAN. PARA "JUSTICE OF DICTATORSHIP." "THEY ARE ORNAMENTS, THESE TRIBUNALS -- DECORATIONS," SCOFFED A DEFENSE ATTORNEY WHO CAME TO THE SOUTH AFTER TRYING IN VAIN TO DEFEND CLIENTS IN THE COMMUNISTS' JUDICIAL SYSTEM IN NORTH VIETNAM DURING THE NINETEEN-FIFTIES. "THE JUSTICE IN THE NORTH IS ALSO THE JUSTICE OF DICTATORSHIP," HE ADDED. PARA EFFORTS TO OBTAIN OFFICIAL GOVERNMENT COMMENT ON THE MILITARY COURTS WERE UNSUCCESSFUL. PARA THE MILITARY JUSTICE SYSTEM AND THE NATIONAL POLICE APPARATUS ARE TWO SIDES OF THE SAME COIN; EACH FUNCTIONS AS PART OF THE WAR EFFORT. PARA THE POLICE ARE HEAVILY INFLUENCED BY THE MILITARY. THE NATIONAL POLICE COMMANDER, BRIG.GEN. NGUYEN KHAC BINH, AND MANY TOP OFFICERS ARE CAREER ARMY MEN. THERE IS CONSIDERABLE MOVEMENT BY OFFICERS BACK AND FORTH BETWEEN ARMY AND POLICE. ARA PRESIDENT THIEU HAS TOLD THE POLICE IN A NUMBER OF SPEECHES THAT ONE OF THEIR MAIN JOBS IS TO COUNTER THE VIET CONG. FOR THAT PURPOSE THE SPECIAL BRANCH
UNCLASSIFIED

UNCLASSIFIED

PAGE 09 STATE 181944

OPERATES IN THE PROVINCES IN TEAMS CALLED PROVINCIAL RECONNAISSANCE UNITS. THESE CARRY ON THE PHOENIX PROGRAM, WHICH THE UNITED STATES HEAVILY FINANCED AND ADVISED. IT ATTEMPTS TO GATHER INTELLIGENCE ON, ARREST, DETAIN

AND SOME AMERICAN OFFICIALS HAVE SAID--ASSASSINATE VIET CONG OFFICIALS. PARA THE UNITS HAVE A BUILT-IN MOTIVE TO ARREST A LARGE NUMBER OF PEOPLE, ACCORDING TO A HIGH-RANKING OFFICER IN ONE SUCH UNIT, FOR THEIR RATINGS AND THEIR OFFICERS' CHANCES OF PROMOTION RISE WITH THE NUMBER KILLED OR ARRESTED. PARA UNTIL 1971, HE SAID, CASH BONUSES WERE GIVEN EACH MONTH FOR VIET CONG KILLED AND ARRESTED, AND WHEN THE BONUSES STOPPED THE NUMBERS DROPPED OFF. PARA "PRIZES STILL AWARDED" SOME PRIZES ARE STILL AWARDED. AT AN ANNUAL CEREMONY LAST JANUARY A DOLS 600 PRIZE WAS GIVEN TO SGT. LE VAN QUY OF THE POLICE FOR OUTSTANDING PERFORMANCE IN DESTROYING THE VIET CONG "INFRASTRUCTURE"; HE WAS CREDITED WITH KILLING 22 MEN AND CAPTURING 16. PARA THERE HAS BEEN CRITICISM THAT THE REWARDS MAKE THE POLICE OVERZEALOUS AND CARELESS IN ARRESTS. THERE IS NOT MUCH HOLDING THEM BACK SINCE THEY HAVE SWEEPING POWERS AND THE MILITARY JUDICIAL SYSTEM PROVIDES LITTLE ULTIMATE EVALUATION OF THEIR WORK. PARA IN 1971 A NUMBER OF AMERICAN OFFICIALS WHO HAD SERVED AS INTELLIGENCE OPERATIVES AND POLICE ADVISERS IN VIETNAM TOLD THE HOUSE COMMITTEE ON GOVERNMENT OPERATIONS THAT FAULTY INTELLIGENCE OFTEN LED TO THE ARREST AND IMPRISONMENT OF NON-COMMUNISTS. PARA ONE WHO CONCEDED THIS POSSIBILITY UNDER QUESTIONING WAS WILLIAM E. COLBY, THEN DIRECTOR OF THE UNITED STATES CIVIL OPERATIONS AND RURAL DEVELOPMENT SUPPORT PROGRAM, COMMONLY KNOWN BY THE ACRONYM CORDS. BUT THE PHOENIX PROGRAM, WHICH CAME UNDER CORDS, HAD MR. COLBY'S SUPPORT AS "AN ESSENTIAL ELEMENT OF VIETNAM'S DEFENSE AGAINST VIET CONG SUBVERSION AND TERRORISM." PARA BOTH PHOENIX AND THE POLICE APPARATUS WERE REGARDED BY MANY AMERICAN OFFICIALS--AND STILL ARE--AS THE CENTERPIECE IN ANTIGUERRILLA WARFARE. CONSEQUENTLY, THE UNITED STATES HAS SUPPORTED A VAST EXPANSION OF THE POLICE FORCE--FROM 16,000 MEN IN 1960 TO 122,000 TODAY. PARA "BIG U.S. INVESTMENT" BETWEEN 1967 AND 1972, ACCORDING TO A REPORT OF THE

UNCLASSIFIED

UNCLASSIFIED

PAGE 10 STATE 181944

GOVERNMENT OPERATIONS COMMITTEE, THE UNITED STATES SPENT DOLS 125.8 MILLION EQUIPPING AND TRAINING POLICEMEN, PROVIDING COMPUTER AND RADIO SYSTEMS FOR POLICE USE

AND IMPROVING AND EXPANDING THE PRISONS. OVER 200 AMERICAN CIVILIAN POLICE ADVISERS AND OVER 600 MILITARY ADVISERS WERE WORKING WITH THE POLICE IN 1972, THE REPORT SAID. PARA ACCORDING TO THE UNITED STATES EMBASSY IN SAIGON, THE POLICE ADVISERS HAVE LEFT IN COMPLIANCE WITH THE PARIS AGREEMENT, BUT THE CENTRAL INTELLIGENCE AGENCY, WHOSE DIRECTOR IS NOW MR. COLBY, CONTINUES TO MAINTAIN CLOSE CONTACT WITH THE SPECIAL BRANCH. PARA TWO HIGH-

RANKING OFFICERS IN THE SPECIAL BRANCH SAID RECENTLY THAT CIA OFFICIALS FREQUENTLY ASK THE POLICE TO GET SPECIFIC INTELLIGENCE INFORMATION. THE CIA THEN GIVES ADVICE ON ANALYSIS OF THE RAW DATA. IN ADDITION, AMERICANS WHO ARE FLUENT IN VIETNAMESE STILL INTERROGATE INTERESTING PRISONERS--BOTH MILITARY AND CIVILIAN--AT "COMBINED INTERROGATION CENTERS" IN SOME PROVINCE CAPITALS, ACCORDING TO A WELL-PLACED OFFICER IN A PROVINCIAL RECONNAISSANCE UNIT. PARA A HIGH-RANKING OFFICER SAID THAT THE POLICE WERE USING AMERICAN TEXTBOOKS ON INTERROGATION AND INTELLIGENCE-GATHERING, AND THAT AMERICAN FILMS ON TECHNIQUES SUCH AS FOLLOWING PEOPLE WERE STILL ESSENTIAL PARTS OF POLICE TRAINING. PARA PRECISELY WHAT AID CONTINUES TO FLOW TO THE POLICE THE EMBASSY STEADFASTLY REFUSES TO SAY. IN RESPONSE TO A CONGRESSIONAL PROHIBITION ON FURTHER AID TO THE POLICE, PASSED LAST DECEMBER, "ALL U.S. AID TO THE POLICE HAS EITHER BEEN STOPPED OR IS BEING STOPPED WITH THE SOLE EXCEPTION OF IRREVOCABLE CONTRACTS," IN THE WORDS OF JOHN A. SWENSON, THE ACTING PRESS ATTACHE. HE REFUSED TO SPECIFY WHAT THE IRREVOCABLE CONTRACTS PROVIDED. PARA PRISONERS HAVE SEEN ONLY THE SHADOWY PRESENCE OF AMERICANS IN THE POLICE SYSTEM OVER THE YEARS. PARA "ROLE OF AMERICANS NOTED" MRS. TON THAT DUONG KY, WHOSE HUSBAND, A PROFESSOR, WAS EXILED TO NORTH VIETNAM AFTER SIGNING AN ANTIWAR PETITION, SAID THAT AN AMERICAN IN CIVILIAN CLOTHES WAS AMONG 40 OR 50 SOUTH VIETNAMESE POLICEMEN WHO SURROUNDED HER HOUSE BEFORE DAWN IN DECEMBER, 1968, AND ARRESTED THREE OF HER CHILDREN. THE UNCLASSIFIED

UNCLASSIFIED

PAGE 11 STATE 181944

CHILDREN SAW HIM LATER AT THE POLICE STATION, SHE SAID, AND HE SEEMED TO HAVE SOME AUTHORITY. PARA A MILITANT BUDDHIST STUDENT WHO ASKED TO REMAIN ANONYMOUS SAID THAT AS THE POLICE WERE INTERROGATING HIM IN 1969 A STOCKY, WHITE-HAIRED AMERICAN CAME INTO THE ROOM. PARA THE VIETNAMESE INTERROGATOR, A POLICE MAJOR, THEN HANDCUFFED THE STUDENT'S HANDS BEHIND HIS BACK, TIED A ROPE TO HIS ELBOWS AND HOISTED HIM OFF THE FLOOR. THE STUDENT SAID HE WAS THEN BEATEN BY THE MAJOR, WHO KEPT SAYING THAT THE PEACE MOVEMENT THE STUDENT DIRECTED WAS REALLY A

COMMUNIST MOVEMENT AGAINST THE AMERICANS. PARA THE STUDENT RECALLED THAT THE AMERICAN WAS STANDING FACING HIM, HE HAD PUT A BRIEFCASE IN THE CORNER AND WAS HOLDING AN ENVELOPE OF NOTES CLIPPED TOGETHER WITH A BALLPOINT PEN. OCCASIONALLY HE WOULD WRITE SOMETHING. "HIS FACE WAS IMPASSIVE, INDIFFERENT," THE STUDENT SAID. "PERHAPS HE WAS USED TO SEEING SUCH THINGS." PARA "TWO AMERICAN ONLOOKERS" NGUYEN XUAN HAM, A STUDENT LEADER AT SAIGON UNIVERSITY, SAID THAT IN 1972, AFTER HE HAD BEEN BEATEN

AND WAS STILL TIED TO A CHAIR, TWO AMERICANS CAME IN, SPOKE INAUDIBLY WITH THE OFFICIAL WHO HAD BEATEN HIM AND WENT OUT. PARA A JOURNALIST WHO ASKED TO REMAIN ANONYMOUS RECALLED THAT AFTER THE POLICE HAD TYPED UP HIS CONFESSION WHEN HE WAS ARRESTED IN 1972 HE SAW A SEPARATE SHEET OF PAPER IN ENGLISH, LABELED "CONFIDENTIAL," AND HIS INTERROGATOR TOLD HIM THAT HIS DOSSIER HAD BEEN SENT TO THE "AMERICAN COORDINATOR." PARA TRAN TUAN NHAM, THE UNSUCCESSFUL OPPOSITION CANDIDATE FOR THE ASSEMBLY, SAID THAT IN THE SPRING OF 1973, AT LEAST FOUR MONTHS AFTER THE SIGNING OF THE PARIS AGREEMENT, "WHILE I WAS IN A SMALL ROOM BEING INTERROGATED, ANOTHER PERSON CAME IN LOOKING FOR A DOSSIER; THE ANSWER WAS THAT THE DOSSIER HAD BEEN TAKEN TO THE AMERICAN ADVISER." PARA ON THE OTHER HAND, MANY PRISONERS HAVE SAID THAT THEY SAW NO TRACE OF AMERICANS WORKING WITH THE POLICE. ONE NOTED SARDONICALLY, HOWEVER, THAT THE HANDCUFFS WITH WHICH HE WAS SHACKLED TO A CHAIR DURING TORTURE WERE MARKED, "MADE IN U.S.A." END TEXT

2. THERE ALSO FOLLOWS TEXT OF A NON-BY-LINE INSIDE UNCLASSIFIED

UNCLASSIFIED

PAGE 12 STATE 181944

PAGE STORY ON "COMMUNIST COURT SYSTEMS IN VIETNAM REFLECT MILITARY". WOULD APPRECIATE YOUR COMMENTS.

BEGIN TEXT

PARA SINCE NEITHER NORTH VIETNAM NOR THE VIET CONG HAVE ALLOWED NEWSMEN OR OTHER OUTSIDERS TO SUBJECT THEIR SOCIETIES TO THE CLOSE EXAMINATION THAT THE SOUTH VIETNAMESE GOVERNMENT HAS PERMITTED, ONLY A SKETCHY PICTURE OF THE COMMUNIST JUDICIAL SYSTEMS EMERGES FROM CAPTURED DOCUMENTS AND STATEMENTS OF PRISONERS AND DEFECTORS. PARA BOTH THE NORTH VIETNAMESE AND THE VIET CONG SYSTEMS APPEAR TO HAVE BEEN STRONGLY INFLUENCED BY THE MILITARY. PARA "THE NORTH VIETNAMESE COURTS GOT OFF TO A MILITARY START UNDER THE VIET MINH, AND FOR MANY OF THEIR SENIOR LAW PEOPLE THE MAJOR EARLY EXPERIENCE WAS IN THE MILITARY," SAID AN AMERICAN OFFICIAL WHO FOLLOWS EVENTS IN THE NORTH. PARA HE SAID THAT POLITICAL CRIMES

WERE TRIED SEPARATELY AND IN SECRET, ALTHOUGH, ON PAPER AT LEAST, THE DEFENDANT IS ENTITLED TO CALL AND CROSS-EXAMINE WITNESSES. PARA DOCUMENTS SHOW THAT NORTH VIETNAMESE COURTS MAY SENTENCE POLITICAL OFFENDERS NOT ONLY TO PRISON BUT ALSO TO WHAT IS CALLED "CONTROL," A CONDITION IN WHICH THEY ARE PLACED UNDER POLICE SURVEILLANCE AND ARE REQUIRED TO WORK, BUT ARE BARRED FROM SUCH JOBS AS PHOTOGRAPHY, ENGRAVING, REPAIRING ARMS OR ELECTRICAL EQUIPMENT, TEACHING SCHOOL, PRACTICING MEDICINE AND RUNNING BOOKSTORES. PARA NORTH VIETNAMESE LAW CONTAINS PROVISIONS AGAINST ARREST AND SEARCH WITHOUT WARRANT EXCEPT IN "EMERGENCY" CASES. BUT ONE DOCUMENT, REPORTING POLICE ABUSE OF THE RESTRICTIONS, NOTED THAT ILLEGAL HOUSE AND MAIL SEARCHES OCCURRED AND THAT MINOR CRIMES WERE SOMETIMES CLASSIFIED AS EMERGENCY CASES SO THAT THE RESTRICTIONS COULD BE SIDESTEPED. PARA THE VIET CONG, IN A 1967 DOCUMENT DISCUSSING THEIR MILITARY COURT SYSTEM, DESCRIBED AMONG ITS FUNCTIONS "INSURING POLITICAL HOMOGENEITY" AND "STRONGLY REPRESSING POLITICAL OFFENDERS AND ANTI-REVOLUTIONARY ELEMENTS." PARA ALL THE PROCEDURES--ARREST, TRIAL, SENTENCING AND EVEN ASSASSINATION--ARE CLOAKED IN LEGALISMS. DOCUMENTS SHOW AN ELABORATE HIERARCHY AND DIVISION OF RESPONSIBILITY THAT LIMIT THE AUTHORITY OF

UNCLASSIFIED

UNCLASSIFIED

PAGE 13 STATE 181944

LOW-LEVEL OFFICIALS TO ARREST AND IMPRISON. PARA "PUTTING BEST FACE ON IT" IN THE BOOK "VIET CONG," DOUBLAS PIKE QUOTES A DOCUMENT FROM 1962 INSTRUCTING COMMUNIST OFFICIALS TO COMBAT GOVERNMENT INFILTRATORS AND REACTIONARIES, ADDING, "BUT WE SHOULD BE EVER CAUTIOUS IN MAKING ARRESTS...AND PEOPLE SHOULD HAVE NO MISGIVINGS OR DISSATISFACTION WITH OUR METHOD OF ARREST, INVESTIGATION AND FINAL JUDGMENT." PARA NEVERTHELESS, A VIET CONG DEFECTOR, BUI CONG TUONG, A MEMBER OF A PROVINCE PARTY COMMITTEE, DESCRIBED A 1962 OR 1963 SESSION OF A "PEOPLE'S COURT": PARA "I HAD TO WRITE DOWN DIFFERENT MOTIVES FOR EACH OF THESE 25 DEATH SENTENCES. THE DEATH SENTENCES HAD ALREADY BEEN DECIDED BY THE PROVINCE PARTY COMMITTEE. THE CONDEMNATIONS HAD TO BE READ TO THE PEOPLE, AND I HAD TO WRITE THEM IN SUCH A MANNER THAT THEY WOULD BE APPROVED BY THE PEOPLE." PARA THE PEOPLE SHOUTED FOR THE DEATH SENTENCE, HE RECALLED, THE COURT PRONOUNCED IT AND IT WAS CARRIED OUT IMMEDIATELY. PARA SIMILARLY, ASSASSINATIONS BY VIET CONG "SECURITY" OR "PACIFICATION" UNITS OFTEN FOLLOW PROCEDURES THAT SOUND LEGAL. PARA LAST JANUARY HUYNH THANH TOAN, THE 25-YEAR-OLD VIET CONG CHIEF OF HOAI CHAU VILLAGE ON SOUTH VIETNAM'S CENTRAL COAST, TOLD A VISITOR HOW, IN 1969 AND 1970, WHEN HE SERVED IN A PACIFICATION COMPANY,

HE WAS REQUIRED TO TAKE THE FOLLOWING STEPS BEFORE
KILLING ONE OF THE "CRUEL AND WICKED ELEMENTS": PARA
TRY TO PERSUADE HIM TO MEND HIS WAYS, TO STOP COMMITTING
CRIMES AGAINST THE PEOPLE; PRESS HIS RELATIVES TO USE
THEIR INFLUENCE ON HIM. PARA IF HE PERSISTS SEND HIM A

LETTER ENUMERATING HIS ERRORS AND WARNING HIM OF GRAVE
CONSEQUENCES. PARA IF HE PERSISTS WOUND HIM--IN THE
LEGS, FOR EXAMPLE. PARA RETURN TO STEP ONE AND TRY
PERSUASION AGAIN. PARA IF THIS FAILS KILL HIM. PARA
"INDICTMENT" LEFT ON BODY" OTHER FORMS OF ASSASSINATION
HAVE BEEN USED TO DISRUPT THE GOVERNMENT'S CONTROL OF AN
AREA. IN ALMOST ALL CASES THE BODY IS FOUND WITH AN
"INDICTMENT" PINNED TO THE SHIRT, USUALLY CONVICTING THE
CONDEMNED MAN OF SOMETHING LIKE "TREACHEROUS ACTIVITIES
AGAINST THE COUNTRY AND THE PEOPLE." PARA COURTS ARE ALSO
EMPOWERED TO SENTENCE OFFENDERS TO "THOUGHT-REFORM
UNCLASSIFIED

UNCLASSIFIED

PAGE 14 STATE 181944

CAMPS" WHERE THEY UNDERGO SELF-CRITICISM AND RE-
EDUCATION. PARA VIET CONG SUSPICIONS ARE APPARENTLY TURNED
ON VAST GROUPS OF PEOPLE , JUST AS THE GOVERNMENT'S ARE.
IN A DIRECTIVE FROM THE CENTRAL COMMITTEE OF THE QUANG NAM
PROVINCIAL PEOPLE'S REVOLUTIONARY PARTY DATED FEBRUARY 7,
1972, THOSE WHO WERE TO BE PLACED UNDER INVESTIGATION
INCLUDED: PARA ALL FORMER "FRENCH-AFFILIATED" PEOPLE;
"HARD-CORE ELEMENTS" IN ROMAN CATHOLICISM, BUDDHISM, CAO
DAISM AND PROTESTANTISM; CHRISTIAN AND BUDDHIST YOUTH
GROUPS; "PERSONS WHO TRAVEL FREELY BETWEEN THE ENEMY'S
AND OUR OWN CONTROLLED AREAS FOR UNKNOWN REASONS";
PERSONS WHOSE RELATIVES WORK FOR "ENEMY AGENCIES"; WIVES
OF FOREIGN NATIONALS OR "HALF-BREED" VIETNAMESE;
CHINESE NATIONALS AND THEIR WIVES AND CHILDREN. END TEXT.
KISSINGER

UNCLASSIFIED

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: PRESS COMMENTS, COURT DECISIONS, TREASON TRIALS
Control Number: n/a
Copy: SINGLE
Draft Date: 19 AUG 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974STATE181944
Document Source: CORE
Document Unique ID: 00
Drafter: OABARTLEY:JCM
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D740228-0727
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740835/aaaabedi.tel
Line Count: 639
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN EA
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 12
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: boyleja
Review Comment: n/a
Review Content Flags:
Review Date: 09 OCT 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <09 OCT 2002 by ReddocGW>; APPROVED <23 JAN 2003 by boyleja>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: NEW YORK TIMES ARTICLES FOR CHARGE FROM EA/VN.
TAGS: PINT, VS, NEW YORK TIMES
To: SAIGON
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005